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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/686,813	10/12/2000	Yoshichika Komatsu	58647-029	5340

7590 03/24/2003  
Kenneth L Cage  
McDermott Will & Emery  
600 13th Street NW  
Washington, DC 20005-3096

EXAMINER

NGHIEM, MICHAEL P

ART UNIT	PAPER NUMBER
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2863

DATE MAILED: 03/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application N .

09/686,813

Applicant(s)

KOMATSU ET AL. 

Examiner

Michael P Nghiem

Art Unit

2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 March 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 7-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 7-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

The Amendment filed on March 11, 2003 has been acknowledged.

### ***Request for Continued Examination***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 11, 2003 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 7-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Admitted Prior Art of Figs. 4 and 5 (APA).

APA discloses all the claimed features of the invention including:

- a body composition measuring apparatus (Figs. 4's) with a built-in weight meter (page 2, lines 14-15) based on bioelectrical impedance measurement, comprising:

- a weight meter (page 2, lines 14-15) for measuring a weight of a person under test (Figs. 4's);

- a data input device (88);

- an impedance measurement device (means in s16);

- a CPU (control device of apparatus, see s14, s17), wherein personal body information is entered using said data input device after measuring the weight (after s18, system loops back to s12, Fig. 5);

- a weight sensor (weight sensor of 88, Figs. 4's) of said weight meter is connected to said CPU (page 3, lines 4-6);

- said CPU estimates the body composition of the person under test based upon the personal body information, the weight measured prior to entering the personal body information (weight of the same body is the same regardless of when its is measured), and data from said impedance measurement device (steps from s12-s18, Fig. 5);

- said weight meter determines a no-load output thereof immediately after power up of said apparatus (immediately from s11-s14, page 2, line 24 – page 3, line 2);

- said weight meter measures the weight in response to detecting the load (Fig. 5);
- said personal body information is entered while the person under test stands on said weight meter (Figs. 4's);
- said personal body information includes at least one of the following: the height, the sex and the age of the person under test (page 2, lines 25-26);
- said body composition includes at least one of the following: the body fat percentage, the fat mass, the amount of body water and the amount of muscle of the person under test (page 3, lines 8-11).

### ***Response to Arguments***

3. Applicant's arguments filed on March 11, 2003 have been fully considered but they are not persuasive.

With respect to the 35 USC 102 rejections, Applicants argue that the Admitted Prior Art (APA) does not teach estimating body composition based upon the personal body information and the weight measured prior to entering the personal body information. Examiner's position is that APA5 discloses estimating body composition based upon the personal body information and the weight measured prior to entering the personal body information (steps from s12-s18, Fig. 5). It is noted that a weight of a same body is the same regardless of when it is measured.

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Applicants further argue that APA does not disclose a weight meter that determines a no-load output immediately after power up of the apparatus.

Examiner's position is that APA discloses a weight meter (88) that determines a no-load output (at step s14) immediately after power up (step s11) of the apparatus (Fig. 5).

Even though (s14) is made after (s12-s13), which occur after (s11), the time to complete (s12-13) may only take seconds. Thus, (s14) occurs immediately after (s11).

**Contact Information**

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Nghiem whose telephone number is (703) 306-3445. The examiner can normally be reached on M-H from 6:30AM – 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached at (703) 308-3126. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7724 for regular communications and (703) 308-5841 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

  
MICHAEL NGHIE  
PRIMARY EXAMINER

Michael Nghiem

March 21, 2003